

REMARKS

Favorable reconsideration is respectfully requested in view of the previous amendments and following remarks.

Claim 1, the only independent claim, is rejected as being unpatentable over U.S. Application Publication No. 2002/0159915, hereinafter Zelina, in view of U.S. Patent No. 6,475,435, hereinafter Taggart.

As discussed in the previous response, it is clear from a careful reading of Taggart that, if anything, zone 165 is Taggart's sterilization zone, and zone 164 is Taggart's venting zone. The most recent Official Action responds to this point by asserting that " there is no specific feature required for a sterilization zone in the current claim language...".

However, while Taggart discloses a number of consecutive zones, which are all denoted as sterilization zones, it is clearly stated starting on line 54 of column 9 that the highest concentration level of sterilant is in the zone 165. In the same paragraph, Taggart further states that the concentration level is 1000 ppm in zone 165, 3 ppm in zone 164, less than 0.5 ppm in zone 166, and about 0.1 ppm in zone 172. As zone 166 is the filling zone, if an ordinarily skilled artisan were to modify Zelina's device in view of Taggart's disclosure, at most, the artisan would look only to the features arranged upstream of partition 130B in Fig. 3 of Taggart, which would not include the zone 166 relied upon by the Examiner.

Moreover, to further define this distinguishing aspect of the Claim 1 device, Claim 1 is amended to recites that the device is for sterilization in production of packages prior to filling the packages.

Additionally, Zelina's heating chamber 170 does not include means for withdrawing vapor therefrom. Applicants respectfully submit that because Zelina's heating chamber 170 does not include means for withdrawing vapor therefrom, an ordinarily skilled artisan would seek to avoid seepage of hydrogen peroxide gas into Zelina's heating chamber 170 in order to avoid the problem of condensation of the hydrogen peroxide on the containers. Thus, an ordinarily skilled artisan would not have included means for maintaining a higher positive pressure in the decontamination tunnel 11 than in the heating chamber 170 in Zelina.

Claim 1 is therefore allowable over Zelina in view of Taggart, and withdrawal of the rejection of Claim 1 is respectfully requested.

Claims 1-4 and 6-19 are rejected under double patenting grounds as being unpatentable over claims in U.S. Patent No. 7,491,371.

In responding to the arguments in the previous response that this double patenting rejection is improper, the most recent Official Action asserts that "claims 1, 7, 10,-11 and 13 of the patent fully disclose the device as claimed in the current application." This is not so. For example, none of the patent claims recites means for controlling a flow of gaseous sterilizing agent in the sterilization zone such that the gaseous sterilizing agent is both introduced into and evacuated from the sterilization zone at such rate that the higher positive pressure is maintained in the sterilization zone, as recited in this application's Claim 1.

Withdrawal of the double patenting rejection is therefore respectfully requested.

The dependent claims are allowable at least by virtue of their dependence from allowable independent Claim 1. The dependent claims also recite further

distinguishing aspects of the device at issue here. For example, new Claim 36 recites that the packages are heated by introducing and withdrawing hot sterile air in the heating zone.

Early and favorable action with respect to this application is respectfully requested.

Should any questions arise in connection with this application or should the Examiner believe that a telephone conference with the undersigned would be helpful in resolving any remaining issues pertaining to this application the undersigned respectfully requests that he be contacted at the number indicated below.

The Director is hereby authorized to charge any appropriate fees under 37 C.F.R. §§ 1.16, 1.17 and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800.

Respectfully submitted,

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